

Applicant: S. Jayaraman
Application No.: 09/924,540
Examiner: L. Channavajjala

Remarks

Claims 3-19, 26, 31-35, 37, and 38 are pending in the application. Claims 3-7, 9-11, 14-19, 26, and 37 have been amended; claims 1, 2, 20-25, 27-30, and 36 have been canceled; and claim 38 has been added. No new matter has been added. In light of the interview with the Examiner and the Office Action dated November 17, 2003, Applicant believes these amendments and cancellations serve a useful clarification purpose, and are desirable for clarification purposes, independent of patentability. Accordingly, Applicant respectfully submits that the claim amendments, additions, and cancellations do not limit the range of any permissible equivalents.

Interview Summary

The Applicant, through Applicant's attorney, held a telephonic interview with Examiner Channavajjal on January 30, 2004. Applicant appreciates the courtesies extended to Paul Bianco during this interview. The Examiner stated that the Response to the Final Office Action filed January 20, 2004 would not be entered. However, the Examiner indicated that the claims as presented herein distinguish over the prior art and would be considered favorably.

Accordingly, Applicant respectfully submits that the amendments and remarks presented herein reflect those discussed during the interview.

35 U.S.C. §102(b) Rejection - Claim 36

Claim 36 was rejected under 35 U.S.C. 102(b) are being anticipated by JP 09108111 ("JP '111") in view of CN 1104036 ("CN '036"). In an effort to expedite prosecution and without admitting the validity of this rejection, claim 36 has been canceled (without prejudice to pursuing in a continuing application), rendering the rejection to this claim moot.

35 U.S.C. §103(a) Rejection - Claims 1-9, 18, 19, 26, and 33-35

Claims 1-9, 18, 19, 26, and 33-35 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 4,055,668 to Kopp ("Kopp") in view of JP '111 and CN '036.¹

¹ The dependency of claims 3-9, 18, and 19 has been changed so that these claims now depend from independent claim 37, which was not rejected under the Kopp/JP '111/CN '036 combination. As noted

Applicant: S. Jayaraman
Application No.: 09/924,540
Examiner: L. Channavajjala

Specifically, the Examiner asserts that:

US '668 teach infusion package comprising first and second compartments that are permeable and joined to one another along a common seam. The bags are arranged in face-to-face relationship and filled with tea in both compartments. (col. 1, col. 2, lines 19-23 and figures). US '668 does not teach incorporating any medicament in the infusion bag.

JP '111 teaches a tea bag comprising two filtration layers of Japanese paper or synthetic resin, wherein both the layers hold tealeaves in the inner side. The filtration bag reads on the porous sheet of the instant claim. JP '111 teaches varieties of tealeaves including green tea, oolong tea, water chestnut, safflower etc, all of which are herbs and thus read on the instant medicament. JP '111 also teaches a shelf fungus that reads on the claimed probiotic (claim 5). JP '111 teaches applying tealeaves on the filtration bag, and thus read on instant claim 1, which states that medicament is applied to the sheet prior to affixing. JP '111 teaches green tea, oolong tea etc., which are known for medicinal value (see CN 1104036) and thus reads on the claim medicament. Further, in the abstract, JP '111 also refers to tea as crude drug tea, thus suggesting that various types of tea are describes by JP '111 are used for medicinal purposes.

It would have been obvious for one of an ordinary skill in the art at the time of the instant invention to add different types of tea describes by JP '111 in the tea bags of Kopp because both Kopp and JP '111 teach infusion bags such as tea bags and JP '111 suggests adding tea that has a medicinal value (drug tea).

For the reasons set forth below, Applicant respectfully submits that the rejected claims are not taught or suggest by Kopp, JP '111, and CN '036, either alone or in any combination.

As noted by the Examiner, Kopp discloses an infusion package comprising first and second compartments that are permeable and joined to one another along a common seam. The bags are arranged in face-to-face relationship and filled with tea in both compartments. (col. 1, col. 2, lines 19-23 and figures.) As further noted by the Examiner, Kopp does not disclose incorporating any medicament in the infusion bag. The Examiner attempts to remedy this deficiency with JP '111.

From the translation provided with the Office Action dated April 7, 2003, JP '111

in response to the second §103 rejection, Applicant submits that amended independent claim 37 is patentable over any combination of the cited prior art. Accordingly, it is respectfully submitted that

Applicant: S. Jayaraman
Application No.: 09/924,540
Examiner: L. Channavajjala

discloses a tea bag having an outside filtration bag and an inside filtration bag. (see [0005]). The outside filtration bag 2 and the inside filtration bag 3 consist of Japanese paper. (see [0011]). The outside filtration bag 2 holds tea leaves 4 and the inside filtration bag in the interior. (see [0011]). The inside filtration bag 3 also holds tea leaves 5 compressed firmly in the interior. (see [0011]).

Thus, JP '111 teaches a tea bag having two bags: an inner filtration bag and an outer filtration bag, with the inner filtration bag held within the outer filtration bag. The outer filtration bag further includes tea leaves therein. The inner filtration bag includes a second group of tea leaves therein, compressed firmly into a grade which does not collapse. In use, as for the 1st cup of tea, tea is extracted mainly from the tea leaves in the outside filtration bag. (see [0007]). The leaves into which it was compress in the inside filtration bag get loose, and the tea is extracted from the interior increasing in number to *** as it progresses with the 2nd and the 3rd cup. (see [0007]). Accordingly, JP '111 does not disclose applying any medicament onto either of the filtration bags. This is further supported by drawings 1 and 2, wherein the outside filtration bag 2 is shown to include the tea leaves 4 and the inside filtration bag 3 therein and the inside filtration bag is shown to include the compressed tea leaves 5 therein. There is no indication in drawing 1 and 2 of a medicament or any other substance applied to either of the inner or outer filtration bags.

CN '036, like JP '111, discloses medicinal tea. In particular and from the English-language abstract, CN '036 discloses a tea that includes oolong tea as the main ingredient. Thus, CN '036, again like JP '111, does not teach or suggest any type of medicinal agent coated on the tea bag itself.

In contrast, the present invention is directed to a coated filter bag for oral administration of medicament. The filter bag is formed of at least one sheet of porous material affixed together along margins to create sealed edges of the filter bag and to hold a beverage concentrate for infusion into liquid. The medicament is never directly mixed with the tea leaves or powdered beverage concentrate that may be contained in the pouch of the filter bag, but is instead directly incorporated into the filter bag material prior to converting the filter bag material into a pouch.

dependent claims 3-9, 18, and 19 are also not taught or suggested by the prior art of record.

Applicant: S. Jayaraman
Application No.: 09/924,540
Examiner: L. Channavajjala

The medicament 10 can be uniformly loaded on top of the inside or the outside surface of the filter bag material 20. In another embodiment, illustrated in FIG. 2, the medicament 10 is sandwiched in between a lower filter bag material layer 30 and an upper filter bag material layer 40.

Claim 26 now recites a filter bag for oral administration of medicament that includes at least one sheet of porous material forming a sealed bag. The sealed bag includes first and second compartments disposed in side by side relation to one another. A beverage concentrate is disposed in one of the compartments and a therapeutically effective amount of at least one medicinal agent is incorporated into the porous material, with the medicinal agent and the beverage concentrate not being directly mixed.

Even if one were to combine the references as suggested by the Examiner, the invention as recited in claim 26 would still not result. As noted above, Kopp is directed towards an infusion package comprising first and second compartments that are permeable and joined to one another along a common seam. Kopp, as conceded by the Examiner, does not disclose anything about a medicament applied to the material that makes the tea bag. Although JP '111 does disclose the therapeutic nature of tea leaves as well as other substances, JP '111 does not disclose that a therapeutically effective amount of at least one medicament is applied to the tea bag material. Finally, the translated portion of CN '036 makes no reference or disclosure regarding the formation of the tea bag.

In light of the foregoing, amended independent claim 26 is respectfully submitted to be patentable over Kopp in further view of JP '111 and CN '036. As claims 33-35 which depend from amended claim 26 and necessarily include all the elements of their respective base claim, Applicant respectfully submits that these claims are also allowable over the cited references at least for the same reasons.

35 U.S.C. §103 Rejections – Claims 10-17, 27-32 and 37

Claims 10-17, 27-32 and 37 were rejected under 35 U.S.C. §103(a) as being unpatentable over JP '111 in view Kopp, and further in view of JP 53075346 ("Mori et al."). The Examiner asserts that:

Applicant: S. Jayaraman
Application No.: 09/924,540
Examiner: L. Channavajjala

Mori et al teach a flavor preserving tea bag, comprising a coating over the tea bag paper. The compounds suitable for coating comprise amylose starch, cellulose derivatives, alginates, gelatin, etc. Mori et al. teach the coating does not affect the aroma, flavor or taste of the tea. It would have been obvious for one of an ordinary skill in the art at the time of the instant invention to add a coating of gelatin or amylose starch or edible, water-soluble high molecule weight compound because Mori et al teach that the coating material become porous when dipped in hot water and still preserves the taste, aroma and well as the flavor of the tea.

For the reasons set forth below, Applicant respectfully submits that the rejected claims are patentable over JP '111 in view Kopp, and further in view of Mori et al.

As an initial matter, claims 10-17 have been amended so that these claims now depend from amended independent claim 37. Claim 37, analogous to claim 26, now recites a filter bag having at least one sheet of porous material with a therapeutically effective amount of at least one medicinal agent incorporated therein. The at least one sheet of porous material forms a sealed bag having a beverage concentrate therein. Claim 37 also recites that the at least one medicinal agent is selected from the group consisting of a pharmaceutical active, a supplemental nutrient, a beneficial agent, and a combination thereof.

As noted above, neither JP'111 nor Kopp discloses applying a medicament coating to a tea bag. The inclusion of the Mori et al. does nothing to remedy this deficiency.

Mori et al. is directed to a flavor-preserving tea bag coating. Mori et al. discloses a tea bag paper coated with a film composed of one or more edible, water-sol, high-mol.-wt. compd., such as starch and its derives., high-amylose starch, CM-starch, CM-Cellulose, Na Alginate, gelatin, xanthan gum, and Na polyacrylate. (Abstract) The product seals the contents air tight and becomes porous when dipped in water. (Abstract). Thus, Mori et al. is directed to a coating for sealing the content of a tea bag in an air tight seal and does not teach or suggest a medicament coating.

In light of the foregoing, amended independent claim 37 is respectfully submitted to be patentable over JP '111 in view Kopp, and further in view of Mori et al. As claims 10-17 now depend from claim 37 and necessarily include all the elements of their base claim, Applicant respectfully submits that these claims are also allowable over the cited combination at least for the same reasons.

Applicant: S. Jayaraman
Application No.: 09/924,540
Examiner: L. Channavajjala

In an effort to expedite prosecution and without admitting the validity of this rejection, claims 27-30 have been canceled (without prejudice to pursuing in a continuing application), rendering the rejection to these claims moot.

Claims 31 and 32 depend from independent claim 26. As noted above, claim 26 is submitted as being patentable over Kopp in view of JP '111 and CN '036. Claim 26, like claim 37, includes a therapeutically effective amount of at least one medicinal agent disposed on the at least one sheet of porous material forming a sealed bag. As also noted above, Mori et al. does not remedy the deficiencies of the combination of Kopp in view of JP '111 and CN '036. Accordingly, it is respectfully submitted that dependent claims 31 and 32 are not taught or suggested by the cited prior art, either alone or in any combination.

Conclusion

For all of the above reasons, the claim rejections are believed to have been overcome, placing claims 3-19, 26, 31-35, 37, and 38 in condition for allowance, and reconsideration and allowance thereof is respectfully requested.

The Examiner is encouraged to telephone the undersigned to discuss any matter that would expedite allowance of the present application.

No fee is believed to be due. However, please charge any required fee (or credit any overpayments of fees) to the Deposit Account of the undersigned, Account No. 500601 (Docket No. 795-A03-012).

Respectfully submitted,



Paul D. Bianco, Reg. # 43,500

Customer Number: 33771
Paul D. Bianco
FLEIT KAIN GIBBONS GUTMAN BONGINI & BIANCO
601 Brickell Key Drive, Suite 404
Miami, Florida 33131
Tel: 305-931-9620; Fax: 305-931-9627
e-mail: pbianco@focusonip.com